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Γ	APPLICATION NO.	FILING I	DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
	10/630,320	07/30/	2003	Shalaby W. Shalaby	SHA-26-DIV2	8741
	29698	7590	10/11/2005		EXAMINER	
	LEIGH P. G			HAMPTON HIGHTOWER, PATRICIA		
	ATTORNEY PO BOX 168			ART UNIT	PAPER NUMBER	
		CLEMSON, SC 29633-0168			1711	*

DATE MAILED: 10/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary Examiner Patricia Hightower Patricia Hightower Patricia Hightower Patricia Hightower Patricia Hightower Patricia Hightower 1711 - The MAILING DATE of this communication appears on the cover sheet with the correspondence address Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION. Edentices of ties may be available under the provisions of 37 CPR 1.18(a), in no event, however, may a reply be limited the significant of the communication of the material and the significant of the communication of the material and the significant of the communication of the material and the significant of the communication of the material and the significant of the communication of the material and the significant of the communication of the material and the significant of the communication of the material and the significant of the communication of the material and the significant of the material and the significant of the communication of the material and the significant of the communication of the material and the significant of the above claim(s) 1-17 is fare withdrawn from consideration. 5 Claim(s) 1-24 is fare pending in the application. 4 Claim(s) 1-24 is fare rejected. 7 Claim(s) 1-24 is fare rejected. 7 Claim(s) 1-24 is fare rejected. 8 Claim(s) 1-24 is fare rejected. 9 Claim(s) 1-24 is fare rejected. 9 Claim(s) 1-24 is fare rejected. 10 Claim(s) 1-24 is fare rejected. 10 Claim(s) 1-24 is fare rejected. 11 Claim(s) 1-24 is fare rejected. 12 Claim(s) 1-24 is fare rejected. 13 Claim(s) 1-24 is fare rejected. 14 Claim(s) 1-24 is fare rejected. 15 Claim(s) 1-24 is fare rejected. 16 Claim(s) 1-24 is fare rejected. 17 Claim(s) 1-24 is fare allowed. 18 Claim(s) 1-24 is fare rejected. 19 Claim(s) 1-24 is fare rejected. 10 Claim(s		Note the sale of No.						
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Art`Unit: 1711

Response to Amendment

The preliminary amendments filed July 30, 2003 and July 18, 2005 are acknowledged; claims 1-24 are presently pending; claims 1-17 have been withdrawn from consideration in the preliminary amendment filed July 30, 2003; claims 18-24 will receive an office action on the merits.

Information Disclosure Statement

The information disclosure statement filed November 10, 2003 has been considered and has been made of record.

In view of the papers filed July 30, 2003, the inventorship in this nonprovisional application has been changed by the deletion of *Dan Akerfeldt, Fredrick Preiniz and Per Egnelov*.

The application will be forwarded to the Office of Initial Patent Examination (OIPE) for issuance of a corrected filing receipt, and correction of Office records to reflect the inventorship as corrected.

Obviousness-type Double Patenting Rejection

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

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Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 18-24 are rejected under the judicially created doctrine of obviousnesstype double patenting as being unpatentable over claims 1-24 of U.S. Patent No. 6.794.485. Although the conflicting claims are not identical, they are not patentably distinct from each other because the instant application and USP 6,794,485 are viewed as claiming overlapping subject matter. The instant application claims a composite tubular cover or mantle for a stent comprising a polymeric matrix reinforced with monofilament cross-spirals, wherein at least one of the matrix and the reinforcement comprise an absorbable, crystalline, monocentric, polyaxial copolymer having at least three axes originating and extending outwardly from the central atom, each axis comprises an amorphous, flexible component adjacent to and originating from the central atom, derived from a cyclic monomer selected from carbonates and lactones and a rigid, crystallizable component extending outwardly from the amorphous, flexible compone comprising repeat units derived from at least one lactone (i.e., caprolactone, p-dioxanone, 1,5-dioxepan-2-one and trimethylene carbonate, wherein the copolymer has a melting temperature greater than 120°C, a heat of fusion greater than 10 J/g and an endothermic transition at 40 – 100°C which can be controlled by subsequent heat treatment of the copolymer.

The patent claims an absorbable, crystalline, monocentric, polyaxial copolymer comprising three axes originating and extending outwardly from the center of the copolymer, each axis comprising an amorphous, flexible component and a rigid

crystallizable component and a composite tubular cover or mantle for a stent comprising a polymerix matrix reinforced with monofilament cross-spirals, wherein at least one of the matrix is micropous; although the patent is silent as to the claimed properties or characteristics of the copolymer and teaching the heat treatment as instantly claimed. Sillence does not precluded the patent's copolymer from possessing said characteristics or properties since both of the copolymer on the face appear to be the same or similar.

Applicant is reminded that is permissible to use the specification to define what appears in the claims and at col. 11, Example 10, the patentee clearly discloses a general method for assembling composite stent mantle. Thus, the instant application is viewed as being an obvious variation of the patent's invention.

Prior Art

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. These references are cited to show the state of the art of crystalline copolymers and medical devices prepared therefrom; Shalaby, Bezwada, and Tang.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patricia Hightower whose telephone number is (571) 272-1073. The examiner can normally be reached on M-F from 9:30 A.M. - 6:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Seidleck can be reached on (571) 272-1078. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

P. Hampton Hightower Primary Examiner

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P. Hightower:ph September 30, 2005